

ORC  
DEC 27 2019  
no CMS  
EPA Region 10

Office of the Regional Administrator

December 24, 2019

Erika E. Malmen  
EMalmen@perkinscoie.com

**DELIVERED VIA CERTIFIED MAIL TO:**

Mr. Sonny Perdue, Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Avenue SW  
Washington, DC 20250

Nicole R. Nanson, Administrator  
Federal Highway Administration  
1200 New Jersey Avenue SE  
Washington, DC 20590

Ms. Vicki Christiansen, Chief  
United States Forest Service  
1400 Independence Avenue SW  
Washington, DC 20250-0003

Elaine L. Chao  
U.S. Secretary of Transportation  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

Mr. Kirk Flannigan, Area Ranger  
Sawtooth National Recreation Area  
5 North Fork Canyon Road  
Ketchum, ID 83340

Dean Umathum  
United States Dept. of Transportation  
Federal Highway Administration  
1200 New Jersey Avenue SE  
Washington, DC 20590

Jim DeMaagd, Forest Supervisor  
Sawtooth National Forest  
370 American Avenue  
Jerome, ID 83338

**Re: 60-Day Notice of Intent to Sue for Violations of the Clean Water Act**

Ladies and Gentlemen:

On behalf of Sawtooth Mountain Ranch LLC, David Boren, and Lynn Arnone (collectively, "**Sawtooth Ranch**"), based on information we have to date, we hereby provide you with notice of intent to sue in accordance with the citizen suit provision of the Federal Water Pollution Control Act ("**Clean Water Act**" or "**CWA**"), 33 U.S.C. § 1365 (CWA Section 505), and its implementing regulations, 40 C.F.R. Part 100 *et seq.*, in connection with the U.S. Forest Service's issuance of the Decision Memo<sup>1</sup> authorizing the construction of the Redfish to Stanley Trail ("**Trail**") in Custer County, Idaho. We believe construction of the Trail may result in an unauthorized discharge into waters of the United States in violation of Section 404 (33 U.S.C.

<sup>1</sup> Attached as Exhibit A.

December 24, 2019

Page 2

§ 1344) of the CWA. This notice is provided in compliance with 33 U.S.C. § 1365 and 40 C.F.R. § 135.3.

The Decision Memo was signed by Kirk Flannigan, the Sawtooth National Recreation Area Ranger on June 6, 2017 and authorizes the construction of a commuter trail from Redfish Lake to Stanley, Idaho. The Trail is approximately 4.4 miles long, 6.5 feet wide, and will be multi-use. The Trail will be constructed with a combination of hand tools and trail construction machinery. The Forest Service has stated that this project will include the construction of a “turnpike” trail in at least one wetland area. Publicly available information indicates that a “turnpike” trail requires subgrade excavation of a wetland area and then filling the wetland back in with progressively graded rock to keep the trail dry for users. The project area is located on National Forest System lands and on a Forest Service trail easement through private land owned in fee by Sawtooth Ranch within the Sawtooth National Recreation Area. Project area coordinates are: T9N, R13E, Sections 22, 26, 27 & T10N, R13N, Sections 9, 10, 15, and 16. We believe construction funding was granted through the Federal Highway Administration, who will oversee the construction of the Trail.

A letter dated May 8, 2014, from the U.S. Army Corps of Engineers advised the Forest Service to obtain a wetland delineation to determine the need for Clean Water Act permits for construction of the Trail.<sup>2</sup> Sawtooth Ranch has received a copy of the Trail construction contract, which indicates that the project has been approved under Nationwide Permit 42.<sup>3</sup> The permit indicates that the project was approved under a “Preliminary Jurisdictional Determination” that remains subject to revision. Sawtooth Ranch has not been provided a copy of the wetland delineation despite being in a dispute with the Forest Service and the Federal Highway Administration over construction of the Trail.

Based on information available to Sawtooth Ranch, the jurisdictional determination may have been obtained through the communication of misinformation about the project site. The Decision Memo states that the Trail will be constructed across wetland and riparian areas and streams and along lakesides. Forest Service files and communication characterize the wetlands as “minor essentially isolated, seasonally wet area[s].” However, in reality, these areas are year-round wetlands, maintain steady stream-like flows throughout different seasons, and have what appears to be direct hydrological connection to the Salmon River by way of a culvert and perhaps other means. While the Forest Service claims the wetlands are separated from critical habitat in the Salmon River by “substantial distance” the reality is that the wetlands lie within approximately 500 feet of the Salmon River. Further, the Forest Service has admitted that the map attached to the Decision Memo depicts an incorrect Trail alignment, and therefore it is unknown what alignment was considered, if any, for purposes of CWA compliance.

---

<sup>2</sup> Attached as Exhibit B.

<sup>3</sup> Permit Number: NWW-2018-37-102; Attached as Exhibit C.

December 24, 2019

Page 3

In addition, construction of the Trail may violate at least three general and regional conditions of the Nationwide Permit, making the issuance of a Nationwide Permit for this project inappropriate. First, we have seen no indication that either the Federal Highway Administration or the Forest Service has complied with the requirements under the Nationwide Permit for considering the impacts to ESA-listed species and critical habitat. We are not aware of any ESA section 7 consultation on listed aquatic species occurring related to construction of the Trail, despite the proximity of the project and impacted wetlands to the Salmon River and its tributaries. This includes the permit requirement that the permittee coordinate any proposed activities with the Idaho Department of Fish and Game.

Second, the Nationwide Permit does “not authorize any injury to the property or rights of others.” *Sawtooth Ranch owns fee title to approximately 1.5 miles of the 4.4 mile proposed Trail.* The Forest Service, via a provision in the Scenic Conservation Easement that burdens the Ranch, merely owns the right to allow public access to the Trail.<sup>4</sup> One of the large wetland areas the Forest Service has proposed to fill with turnpike trail construction lies on the Ranch’s private fee title property. Because the fee title owner of the property, Sawtooth Ranch, does not consent to the filling of any wetlands on its property, the construction of the Trail would impose injury to property rights, and thus, construction of the Trail would not qualify under the Nationwide Permit.

Finally, Nationwide Permit 42 requires the Federal Highway Administration to submit pre-construction notice to the district engineer prior to commencing any activity. However, despite threats to begin construction for two summers in a row, we have seen no evidence that anyone has submitted a pre-construction notice.

Unless the Forest Service (1) withdraws the Decision Memo authorizing the construction of the Trail; (2) provides evidence that it has complied with the Clean Water Act and its implementing regulations; or (3) applies for an Individual Permit within 60 days of the receipt of this letter, based on our current knowledge, Sawtooth Ranch intends to bring suit under the Clean Water Act challenging the Forest Service and Federal Highway Administration’s former and pending actions in federal district court seeking declaratory, injunctive, and other relief. Consistent with Clean Water Act notice requirements, I am available during this 60-day notice period to discuss resolution of the matter set out in this letter.

Sincerely,



Erika E. Malmen

---

<sup>4</sup> The extent of the access right is the current subject of a Quiet Title action in the District Court for the District of Idaho. *Sawtooth Mountain Ranch v. United States*, Case No. 1:19-cv-00118.



December 24, 2019

Page 4

EEM:kg  
Enclosures

cc: Mr. Andrew Wheeler  
Administrator  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Mail Code: 1101A  
Washington, DC 20460

Mr. Chris Hladick  
Regional Administrator  
U.S. EPA, Region 10  
1200 Sixth Avenue  
Mail Code: 21-B03  
Seattle, WA 98101

Mr. James Werntz,  
Director  
U.S. EPA  
Idaho Operations Office  
950 W. Bannock, Suite 900  
Mail Code: IOO  
Boise, ID 83702

Boise Regulatory Office  
Walla Walla District, Corps of Engineers  
10095 West Emerald Street  
Boise, ID 83704-9754

Mr. John Tippets  
Director  
Idaho Department of Environmental Quality  
1410 N. Hilton Street  
Boise, ID 83706

Mr. Gary Spackman  
Director  
Idaho Department of Water Resources  
PO Box 83702  
Boise, ID 83720-0098

December 24, 2019

Page 5

Mr. William P. Barr  
U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530-0001

Ms. Christine G. England  
Assistant United States Attorney  
District of Idaho  
Washington Group Plaza IV  
800 East Park Boulevard, Suite 600  
Boise, ID 83712-7788

Marie Kellner  
Idaho Conservation League  
PO Box 844  
Boise, ID 83701-0844

# **Exhibit A**

**DECISION MEMO**  
**Redfish to Stanley Trail**  
**USDA Forest Service**  
**Sawtooth National Recreation Area, Sawtooth National Forest**  
**Custer County, Idaho**

**I. BACKGROUND AND PURPOSE**

This project will construct an approximately 4.4 mile trail (includes approximately 1.5 miles on a Forest Service trail easement). The trail will be a multi-use (pedestrian, bike, and equestrian), fully-accessible, non-motorized trail. The trail will have a natural surface and will be approximately 6.5' wide. Once completed, the trail will be adopted into the Sawtooth NRA trail system.

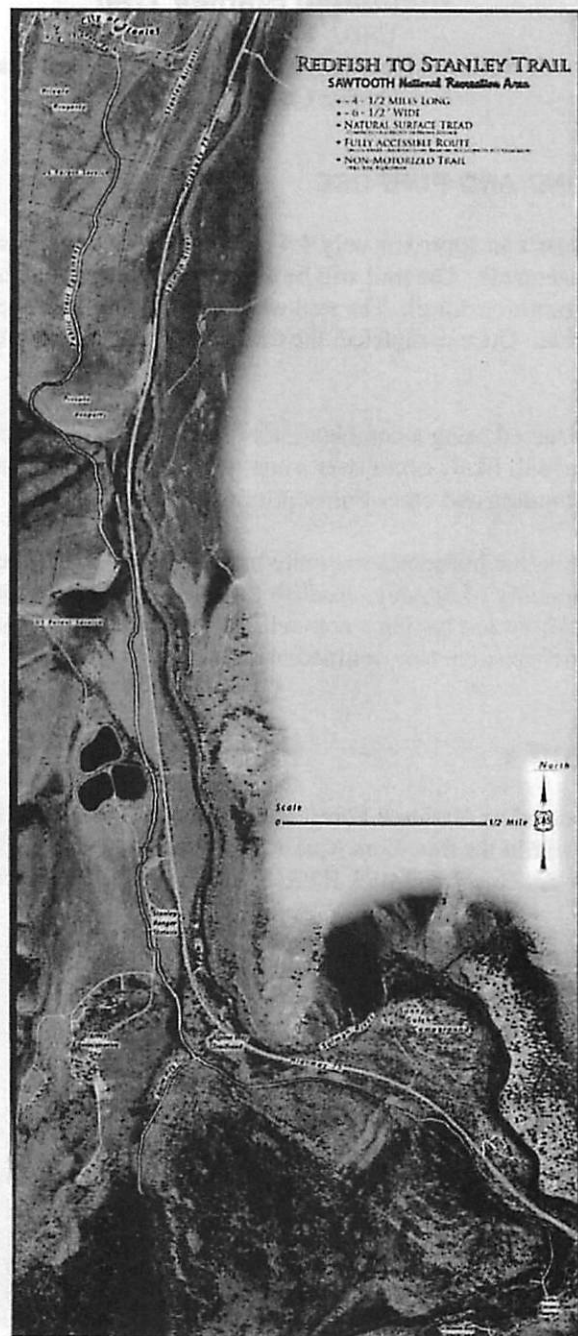
The trail will be constructed using a combination of hand tools and trail construction machinery. Construction activities will likely occur over a one to two year period, but could be shorter or longer depending on funding and other Forest priorities.

A non-motorized alternative transportation route between Stanley and the Redfish Lake complex is desired by the community of Stanley. Redfish Lake is a popular day-use destination for travelers staying in Stanley and having a non-vehicular access route to the complex will add options for travelers between the two destinations.

**II. PROJECT AREA**

The project area is located on National Forest lands and on a Forest Service trail easement through private land within the Sawtooth National Recreation Area. Project area coordinates are: T9N, R13E, Sections 22, 26, 27 & T10N, R13E, Sections 9, 10, 15, and 16.

**Project Map:**





### **III. DECISION**

#### **A. Rationale for Decision**

Based on the identified need for action, and the insight gained through internal and external scoping, it is my decision to authorize construction of the following project elements on National Forest System lands.

#### **B. Project Description**

My decision authorizes the following activities:

- Designate a new trail between Pioneer Park, which is in the City of Stanley, and the Redfish Lake entrance station (roadside pull-off) off of Forest Road #214.
- Gates, bike-friendly cattle guards, and road crossings.
- Interpretive signage opportunities.
- Close and, depending upon the segment, either obliterate or repurpose as a section of the new trail, a segment of the Stanley Administrative Site south access road.
- Relocate the Alpine Way trailhead and convert approximately 1/2 mile of trailhead access road (and trailhead) to single-track trail.
- Obliterate and rehabilitate approximately 3/4 miles of sewer line access road.
- Relocate the current snow machine route from along Highway 75 at the base of the adjacent moraine to follow along an approximately 1,000' section of the new trail route.
- Other activities directly related to fully accessible trail construction (i.e. grubbing, placement of signs, etc...)

**The terms and conditions of the authorization, including required project design features:**

#### **Hydrology/Fisheries Resources**

- Wetland/riparian, stream crossings, and stream and lakeside areas are the most sensitive. REST02 requires that, where reasonable and practical location alternatives exist, new trails be located outside of RCAs.
- Fuel storage and/or refueling will not occur within RCAs (300 ft. buffer). Engine and hydraulic fluids will be monitored for leaks.
- Where construction occurs in the RCAs, standard sediment prevention and retention practices would be utilized (e.g. silt fences, wattles) unless an aquatic specialist determines natural filters are clearly sufficient.
- For new construction activities or rehabilitation in wet environments (wetland), activities would occur in late summer and fall when site conditions are at their driest.

#### **Wildlife Resource**

- The sewer ponds provide a migration stopover for birds. Signs will be installed instructing people to stay on the trail and to keep dogs away from the ponds.
- If new fencing is necessary it will be constructed to be wildlife passable year-round.

- Vegetation removal for trail construction would occur after Aug. 15, if possible, to avoid nesting birds. If the project timeline and associated funding do not allow us to wait until Aug. 15, a biologist will survey the trail alignment and move nests, if any, wherever possible.
- Where live conifer trees are utilized for project objectives, they will generally be between 7 and 12 inches dbh. Standing trees with cavities or with raptor or raven nests will not be cut/used for these objectives.
- Signing may be developed to mitigate issues with wildlife and private lands.

#### **Recreation Resource**

- A hazard tree evaluation will be conducted prior to and after construction and trees with obvious visual defects within falling distance of the improved surface of the trail will be removed. This includes standing dead trees, and leaning trees with structural damage and/or other significant visual defects.
- The following document will guide project managers in evaluating and reducing hazard tree concerns within the project area. USDA, Forest Service, Forest Pest Management, *Tree Hazards: Recognition and Reduction in Recreation Sites*.
- Source material for turn pike construction or bridge fill, if necessary, would be gathered from a location approved by the FS trail manager. Sites are outside areas free of noxious weeds.

#### **Range Resource**

- Self-closing gates and/or livestock cattle-guards (or other similar fence pass-through features) should be used to ensure fenced boundaries remain effective.
- Adaptively manage user conflicts where needed (i.e. dogs and cattle).

#### **Botanical Resource**

- Threatened, Endangered, Proposed, Candidate, Sensitive and Watch plant species populations would be avoided or mitigations to minimize adverse effects to individuals and their habitats would be implemented consistent with TEST06, TEST08, BTST01 and BTGU01.
  - 5-needle pines will be avoided during implementation. Proposed Action activities would avoid exposing five needled pine roots, including those near the soil surface. Five needled pine seedlings that can't be avoided would be salvaged and transplanted by hand to a suitable location.
  - In the event Threatened, Endangered, Proposed, Candidate, Sensitive and Watch plant species are identified in the project area during implementation, a forest Service Botanist would be consulted to ensure effects to individuals would not occur or be minimized.
- Projects that may contribute to the spread or establishment of noxious weeds shall include measures to reduce the potential for spread and establishment of noxious weed infestations consistent with NPST10
  - Existing populations of non-native invasive and noxious plant species within and adjacent to the project area would continue to be inventoried and treated under The Sawtooth National Forest Integrated Weed Management Program using mechanical and biological control agents, and herbicide applications covered in the *"Biological Assessment and Biological Evaluation of Effects from Noxious and Invasive Weed Management Program on Fisheries, Terrestrial Wildlife and*

*Rare Plant Species, Fairfield Ranger and Ketchum Ranger Districts, and Sawtooth National Recreation Area, Sawtooth National Forest, April 6, 2012".*

- 5 years post implementation monitoring the project area would continue for the invasion of new non-native invasive and noxious plant species. If located these species would be treated as described above.
- To prevent invasion/expansion of noxious weeds, the following provisions will be included in all special use authorizations, tree removal contracts, service contracts, or operating plans where land-disturbing activities are associated with the authorized land use (additional direction may be found in timber sale and service contract provisions and in Forest Service handbooks): Consistent with NPST03 -
  - Revegetate areas, as designated by the Forest Service, where the soil has been exposed by ground-disturbing activity. Implement other measures, as designated by the Forest Service, to supplement the influence of re-vegetation in preventing the invasion or expansion of noxious weeds. Potential areas would include: construction and development sites, underground utility corridors, skid trails, landings, firebreaks, slides, slumps, temporary roads, cut and fill slopes, and travel ways of specified roads.
  - Earth-disturbing equipment used on National Forest System lands--such as cats, graders, and front-loaders--shall be cleaned to remove all visible plant parts, dirt, and material that may carry noxious weed seeds. Cleaning shall occur prior to entry onto the project area and again upon leaving the project area, if the project area has noxious weed infestations.
- Contractors shall be required to clean earth-disturbing, construction, and road maintenance equipment, of all sizes, to remove all plant parts, dirt, and material that may carry noxious weed seeds, prior to entry onto the Forest, or movement from one Forest project area to another. Consistent with NPST04. To comply with the USFS 1996, "Weed Free Hay Order," "Noxious-Weed-Free Forage and Straw Rules (IDAPA 02.06.31), and the Final Supplementary Rules to Require the Use of Certified Noxious-Weed-Free Forage and Straw (Federal Register Volume 76, Number 140 (8/21/2011)). Restoration, rehabilitation, and stabilization projects also will be required to use weed-free straw bales and mulch for project work. Consistent with NPST06.
- Source sites for gravel and borrow materials shall be inspected for noxious weeds before materials are processed, used, or transported from the source site into the project area or onto the National Forest. Consistent with NPST07.
- Gravel or borrow material source sites with noxious weed species present shall not be used, unless effective treatment or other mitigation measures are implemented. Consistent with NPST08.
- Revegetation objectives would occur using native species, and would be implemented on all disturbed areas to prevent the colonization of non-native species. A Forest Service Botanist will be consulted to ensure appropriate species are used.
- Staging areas, when required, would be located in previously disturbed areas that are free of noxious weeds. Rehabilitation/revegetation of such areas would occur following completion where/as necessary.

### **Scenery Resource**

- Hard edges shall be softened by selective removal of trees of different ages and heights to produce irregular corridor edges.
- Maintain screen of buffer vegetation between the trail and the highway travel route – especially where trail is closest/most visible to the highway – where it crosses the moraine.

### **Cultural Resource**

- If additional sites are discovered during on-the-ground layout, design or implementation of any action or other on-going survey activities, the Forest archaeologist will consult with the SHPO, as required by law, to document and determine the significance of the discovery and the effects of the project on it. Sites will be treated as specified in 36 CFR 800.11 concerning Properties Discovered During Implementation of an Undertaking and will comply with Native American Graves Protection and Repatriation Act (NAGPRA) should Native American remains ever be inadvertently discovered during construction. The Tribes will be consulted regarding Native American sites.
- **Site SW-26, the Dancing Cat Site.** The proposed trail passes 30 meters away from this site. The sewer-line access road that passes through the site will be closed by placing logs and woody debris along the route. An archaeologist will monitor all work on and near the site.
- **SW-27, the Redfish Overhang.** The proposed trail will pass through the site on the previously disturbed sewer line route. The service road passing through the site will be closed by placing native seed, logs, and woody debris on the road. A worm fence will be built between the trail and the shelter to discourage people from accessing the shelter. Natural vegetation will be left in place between the trail and shelter to partially screen it from view. Clean fill may be placed in the shelter to stabilize the site and protect cultural deposits from looting. An archaeologist will monitor all trail construction, road decommissioning, fence construction, and backfilling at the site. The proposed actions will have no adverse effect on the site.
- **SW-352** is a talus pit site located 30 meters from the proposed trail and bisected by Forest Service Road #433. The road will be decommissioned without disturbing the original ground surface within the site. An archaeologist will monitor all work on or near the site.
- **SW-2228** is a small lithic site located 40 meters from the proposed trail route. An archaeologist will monitor the trail construction work near the site.
- **The Redfish Archaeological District** encompasses sites SW-26, SW-27, SW-352, and SW-2228, and is listed in the National Register of Historic Places. The proposed trail passes through the archaeological district. An archaeologist will monitor all trail construction work within the district.

### III. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Actions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are consistent with one of the categories identified by the U.S. Department of Agriculture in Title 36 of the Code of Federal Regulations (CFR), Section 220.6, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

#### A. Category of Exclusion

The project falls within the category of actions found in 36 CFR 220.6(e)(1):

*Construction and reconstruction of trails.*

#### B. Relationship to Extraordinary Circumstances

Per 36 CFR 220.6 (b) "The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist."

I have reviewed the proposed action and the project record and while there are resource conditions present, the record shows the effects from the proposed action do not warrant further analysis. For these reasons, I am excluding this decision from further documentation.

#### 1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;

The Endangered Species Act requires that federal activities not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. The Forest Service determined the trail project would not adversely affect, or have no effect on listed and candidate species under the Act including whitebark pine, wolverine, yellow-billed cuckoo, sage grouse, Canada lynx, and sensitive species including northern goshawk, boreal owl, flammulated owl. The U.S. Fish and Wildlife Service concurred with this determination in a letter dated May 19, 2014.

#### 2. Floodplains, Wetlands, or Municipal Watersheds.

**Floodplains:** Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, "... the lowland and relatively flat areas adjoining inland and coastal waters including flood

prone areas of offshore islands, including at a minimum, that area subject to a one percent [100-year recurrence] or greater chance of flooding in any one year.”

None of the intended federal actions would influence the connection of streams within their floodplains within the action area, or change the probability or severity of extreme flood events. As such, the action would be consistent with Executive Order 11988. Per ‘Key and Checklist for Documenting Anticipated Effects, and Determination for Federal Actions’, Moulton April 14, 2014.

**Wetlands:** Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “. . . areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or will support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.”

Three segments of the proposed trail would intersect RCAs. One on private land would cross a minor, essentially isolated, seasonally wet area via a short segment of constructed turnpike. The next RCA crossing just south on NFS lands would be similar, except that the short turnpike would only supplement an existing fill associated with a former roadway. Both of the wet segments are non-forested, and are separated from critical habitat in the Salmon River by substantial distance, complex wetlands, and Highway 75. This isolation would preclude any measureable influence to the RCA of the Salmon River. These slight influences to wetlands would also be consistent with Executive Order 11990.

The 3rd segment passes through the RCA near the confluence of Redfish Lake Creek and the Salmon River. However, here the proposed trail would follow existing trends of a former roadway and the Rock Shelter interpretive trail, and cross Redfish Lake Creek on the existing footbridge. As such, essentially no construction/disturbance would be necessary, and use of the trail would be expected to result in negligible influence to RCA conditions. Per ‘Key and Checklist for Documenting Anticipated Effects, and Determination for Federal Actions’, Moulton April 14, 2014.

**Municipal Watersheds:** This decision will not affect municipal watersheds.

### 3. Congressionally Designated Areas

**Wilderness:** This decision does not affect Wilderness. The project is not in or adjacent to Wilderness. This decision, with impacts limited to the immediate area of activity, will not affect the Sawtooth Wilderness.

**National Recreation Areas:** The project authorized by this decision occurs inside the Sawtooth National Recreation Area but does not adversely affect the NRA.



**Wild and Scenic River:** The Salmon River is eligible for listing under the Wild & Scenic Rivers Act as a Recreational River. The proposed project is in conformance with the Wild & Scenic River Act per the project Wild and Scenic River Evaluation, filed in the project record..

**4. Inventoried Roadless Areas**

The project is not within an Inventoried Roadless Area.

**5. Research Natural Areas**

There are no Research Natural Areas in the decision area. This decision, with impacts limited to the immediate area of activity, will not affect Research Natural Areas.

**6. American Indians and Alaska Native religious or cultural sites**

This decision will have no adverse effect on archaeological sites, or historic properties or areas. Based on this consideration, American Indian and Alaska Native religious or cultural sites do not constitute an extraordinary circumstance for this proposed action.

**7. Archaeological Sites, or Historic Properties or Areas**

This decision will have no adverse effect on archaeological sites, or historic properties or areas. The project area was surveyed for archeological sites and historic properties or areas in 2013 and 2015, and clearance for the project was recommended with the protection measures listed above in Section II. The State Historic Preservation Office concurred with the recommendation in Report Number SW-13-2754 dated 04/03/2017.

#### **IV. PUBLIC INVOLVEMENT**

A public survey developed by the City of Stanley and the Forest Service to gauge public support for the project was conducted during the week of July 1, 2013. Out of 619 surveys returned, 86% of survey respondents supported the proposal. Complete survey findings and results can be found in the project record.

This project has been listed continuously in the Sawtooth National Forest *Schedule of Proposed Actions* since January 1, 2014, and concurrently posted on the Sawtooth National Forest Land Management Planning website.

The Sawtooth National Recreation Area hosted a public meeting at the Stanley Community Building on February 27, 2014 to announce the proposal and answer questions. Approximately 25 people attended this public meeting.

A 'Notice of Proposed Action' describing the project and requesting public input was sent to individuals and groups potentially interested or effected. The goal was to receive public comments and allow the Sawtooth National Recreation Area the opportunity to modify the proposal based upon public concerns.

Sixteen comments were received during the scoping period. These comments were cataloged as they arrived, and were reviewed for content. Individual comments were extracted and categorized and responded to in a 'Response to Comments' document. All comment forms,

letters, and e-mails are included in the project record. In reaching my decision, I carefully considered issues identified by the Forest Service interdisciplinary team members who reviewed the proposal, the Shoshone Bannock and Shoshone Paiute Tribes, and those issues, if any, identified by other agencies, organizations, and individuals who submitted scoping comments. The analysis is not a voting process, but I have sought to carefully and objectively assess comments, the analysis, and applicable laws and policy in reaching my decision.

For those commenters that expressed support for the proposed action, it was based on the commenter's beliefs that a trail between Redfish and Stanley would be a valuable additional recreational benefit to the area and potentially boost the local tourist-based economy and/or become another community asset for the Stanley Basin and Sawtooth Valley. They encouraged me to authorize construction of this new trail.

For those commenters expressing an opinion opposing the proposed trail construction, they were concerned about potential wildlife impacts, potential conflicts between trail users and livestock, or potential scenic impacts of the trail. In response, I believe that authorizing this trail construction with the application of the project design features will mitigate impacts to wildlife, grazing and scenic resources.

## **V. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS**

My decision will comply with all applicable laws and regulations.

**National Forest Management Act** - This decision is consistent with the National Forest Management Act and 2012 Sawtooth National Forest Land Management Plan (Forest Plan) as amended. The project was designed in conformance with Forest Plan standards and incorporates appropriate Forest Plan guidelines. Specifically, the project was designed in conformance with the Management Direction for the Upper Salmon River Valley Management Area 2, Sawtooth Land and Resource Management Plan, pages III-107 through III-132.

**Public Law 92-400** - This decision is consistent with direction for management of the Sawtooth National Recreation Area. This decision will not result in "substantial impairment" to any key value defined in P.L. 92-400.

**Executive Order 13175, Consultation with Tribal Governments** - EO 13175 (65 FR 67249-67252, 2000) requires regular and meaningful consultation between federal and tribal government officials on federal policies that have tribal implications. I notified the Nez Perce, Shoshone-Bannock, and Shoshone-Paiute Tribes regarding the proposed activities. Notification of all three tribes via mail and subsequent consultation via multiple consultation meetings with the Shoshone - Bannock and Shoshone - Paiute Tribes resulted in additional design criteria identified above in the 'Cultural Resources' section to mitigate impacts to cultural resources.

**National Historic Preservation Act (NHPA)** - The National Historic Preservation Act requires federal agencies to consider the effects of their activities and programs on historic properties. No historic properties will be adversely affected. The Forest prepared a Heritage Resource Report

and submitted a 'no adverse effect' determination to the Idaho State Historic Preservation Office (SHPO). The Idaho SHPO concurred with this determination on May 1, 2017.

**VI. ADMINISTRATIVE REVIEW**

This decision is subject to neither administrative appeal (36 CFR 215) nor to the pre-decisional objection process (36 CFR 218).

**VII. IMPLEMENTATION DATE**

This decision is anticipated to be implemented on or after the spring of 2018. Construction activities will likely occur over a one to two year period, but could be shorter or longer depending on funding and other Forest priorities.

**VIII. RESPONSIBLE OFFICIAL AND CONTACT PERSON**

The responsible official is Kirk Flannigan, Area Ranger for the Sawtooth National Recreation Area, 5 North Fork Canyon Road, Ketchum, Idaho, 83340. For further information contact the project leader, Matt Phillips at the Sawtooth National Recreation Area @ (208) 727-5025.



**Kirk Flannigan**  
**Area Ranger**  
**Sawtooth National Recreation Area**

June 6, 2017  
Date

## **Exhibit B**



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**WALLA WALLA DISTRICT, CORPS OF ENGINEERS**  
**BOISE REGULATORY OFFICE**  
**10095 WEST EMERALD STREET**  
**BOISE, IDAHO 83704-9754**

May 8, 2014

Regulatory Division

SUBJECT: NWW-2014-00115, USFS, Redfish – Stanley Trail

Mr. Barbara A. Garcia  
USFS, Sawtooth National Forest  
5 North Fork Canyon Road  
Ketchum, Idaho 83340

Dear Ms. Garcia:

This letter is in response to your February, 25, 2014, request for our scoping comments on the proposed multiple use trail between Redfish Lake entrance station pull-out and Pioneer Park, Stanley, Idaho. Thank you for providing the Corps of Engineers the opportunity to provide comments.

The proposed site is located within Section 22 of Township 10 North, Range 13 East, near latitude 44.18037° N and longitude -114.92710° W, in Custer County, near Stanley, Idaho. The project has been assigned Department of Army (DA) File No. NWW-2014-00115, which should be referred to in all future correspondence.

According to the information provided, the proposed project is to develop a multiple use, non-motorized trail between Redfish Lake and Pioneer Park. We realize that a project at the scoping level is less detailed than a project that is being reviewed for a Department of Army (DA) permit. Our scoping comments at this time are limited to the review of the information provided. **This letter is informational in nature and does not constitute a DA authorization to discharge dredge or fill material into a waters of the U.S, including wetlands.**

#### **AUTHORITY**

The DA has regulatory jurisdiction over waters of the United States (U.S.), including wetlands, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Section 404 of the Clean Water Act requires DA authorization be obtained prior to discharging dredged or fill material into waters of the U.S., which includes most perennial and intermittent rivers and streams, natural and man-made lakes and ponds, irrigation and drainage canals and ditches that are tributaries to other waters, and wetlands. The development of recreational trails may require a DA authorization for the discharge of dredged and/or fill material into waters of the US, including wetlands.

Based on our review of the information furnished and available to our office, we have preliminarily determined that the proposed project, may involve work requiring DA authorization. The project area may impact Redfish Lake Creek, unnamed natural streams, and/or unnamed drainages of the Salmon River, including wetlands, which appear to be waters of the U.S., as well as uplands areas. Therefore, a DA permit may be required for the discharge of dredged and/or fill material into the Redfish Lake Creek, unnamed natural streams, and/or unnamed drainages, and associated wetlands.

#### DELINEATION: Waters of the U.S. and Wetlands

A water of the U.S. (including wetlands) delineation may be needed for the proposed project area, based on the information you have provided as well as information available to our office. Prior to issuance of a DA permit, the results of the delineation must be provided to our office and receive our concurrence. We encourage the applicant to contact us prior to conducting a jurisdictional delineation and field data collection, to consult us on the level of detail that will be required for the delineation and/or project.

Per 33 CFR (Code of Federal Regulations) Parts 325-332, all delineations should be conducted and documented in accordance with the guidance provided in the Corps of Engineers 1987 Wetland Delineation Manual and its Regional Supplement, Arid West Region, Version 2.0 (September 2008) and/or its Regional Supplement, Intermountain West, Valley and Coastal Regions, Version 2.0 (May 2010). These documents and their data sheets are available online at <http://www.nwww.usace.army.mil/BusinessWithUs/RegulatoryDivision/Wetlands.aspx>.

The delineation at a minimum should include the following:

- Field data sheets
- A good aerial photo of the proposed project area, sample sites, etc.
- A map or drawing that shows locations and GPS coordinates of sample points for the proposed project in relation to jurisdictional areas
- A written summary of the delineation to include: summarizing the data sheets; information that describes existing conditions; the footprint of the project, as proposed; and how the proposed project will affect aquatic resources within the project (trail corridor)

#### APPLICATION PACKET

Finally, the importance of a complete application packet, including the required drawings / sketches cannot be overemphasized. For assistance in this area we have included our Joint Permits for Application, our Instruction Guide, and sample drawings for reference. We encourage the applicant to work with our Idaho Falls office to ensure that their plans are of acceptable quality for a Pre-Construction Notification or Public Notice.



Additional information regarding the Corps Regulatory program is available online at <http://www.nwww.usace.army.mil/BusinessWithUs/RegulatoryDivision.aspx>. We encourage the applicant to work with our office to ensure that their project receives a timely review.

Please contact James Joyner by telephone (208) 522-1676, or Robert Brochu (208) 522-1645, by mail at the Idaho Falls Regulatory Office, 900 N. Skyline Drive, Suite A, Idaho Falls, Idaho 83402-1718, or via email [james.m.joyner@usace.army.mil](mailto:james.m.joyner@usace.army.mil) or [robert.a.brochu@usace.army.mil](mailto:robert.a.brochu@usace.army.mil) if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Casey Forest", with a stylized flourish at the end.

Casey Forest  
Project Manager  
Regulatory Division

Enclosures:

February 25, 2014, Request for Comments Letter  
Joint Application for Permit  
Instruction Guide  
Sample Drawings

## **Exhibit C**



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
IDAHO FALLS REGULATORY OFFICE  
900 NORTH SKYLINE DRIVE, SUITE A  
IDAHO FALLS, IDAHO 83402-1718

February 02, 2018

Regulatory Division

SUBJECT: NWW-2018-37-I02, Redfish Lake to Stanley Trail Project

Mr. Scott Smithline  
Federal Highway Administration – Western Federal Lands Hwy Division  
610 E 5<sup>th</sup> Street  
Vancouver, Washington 98661

Dear Mr. Smithline:

We have determined that your proposed project "Redfish Lake to Stanley Trail" is authorized in accordance with Department of Army (DA) **Nationwide Permit (NWP) No. 42: Recreational Facilities**. This project is located within Sections 9, 15, 16, 22, 26, and 27 of Township 10 North, Range 13 East, near latitude 44.188723° N and longitude -114.920359° W, in Custer County, near Stanley, Idaho. Please refer to File Number NWW-2018-37-I02 in all future correspondence with our office regarding this project.

Project activities include the discharge of approximately 290 cubic yards of rock fill below the ordinary high water mark of two unnamed streams and adjacent wetlands to construct 4.4 miles of multi-use trail for alternative transportation from Redfish Lake to Stanley. All work shall be done in accordance to the information provided with and drawings attached to your January 9, 2018, Joint Application for Permits.

#### **AUTHORITY**

DA permit authorization is necessary because your project would involve the discharge of dredged and/or fill material into Waters of the U.S., including wetlands. This authorization is outlined in Section 404 of the Clean Water Act (33 U.S.C. 1344).

#### **PERMIT CONDITIONS**

You must comply with all regional and general conditions for this verification letter to remain valid and to avoid possible enforcement actions. The regional and general permit conditions for *NWP No. 42: Recreational Facilities* are available online at <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/>. If you are unable to access this website or would prefer a hard copy of the regional and general conditions please notify us and we will provide you a copy. In addition you must also comply with the special conditions listed below.

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

### **WATER QUALITY CERTIFICATION**

You must also comply with the conditions detailed in the Section 401 Water Quality Certification (WQC) issued by the Idaho Department of Environmental Quality (IDEQ) on March 3, 2017. For your review, a copy of this 401 WQC is available on the IDEQ's website at: <http://www.deq.idaho.gov/media/60179758/nationwide-permits-2017-401-certification-0317.pdf>. If you have any questions regarding the conditions set forth in the Water Quality Certification, please contact IDEQ directly at 208-528-2650, Idaho Falls Regional Office

### **PRELIMINARY JURISDICTIONAL DETERMINATION**

Attached to this verification are two copies of the Preliminary Jurisdictional Determination (PJD) form showing that Waters of the United States, including wetlands, may be located within your project area. **Please sign both copies and return one to the Corps at the address in the letterhead above.** The other copy is for your records.

The Preliminary Jurisdictional Determination is a non-binding action and shall remain in effect, unless a request for an Approved Jurisdictional Determination or new information supporting a revision is provided to this office. Please note that since this Jurisdictional Determination is preliminary, it is subject to change and therefore is not an appealable action under the Corps of Engineers Administrative Appeal Procedures (33 CFR 331). Enclosed you will find a *Notification of Administrative Appeal Options and Process and Request for Appeal (RFA) Form* for further clarification.

### **COMPLIANCE CERTIFICATION**

Further, Nationwide Permit General Condition 30 (*Compliance Certification*) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. The enclosed Compliance Certification form is enclosed for your convenience and must be completed and returned to us.

### **LIMITATIONS OF THIS VERIFICATION**

This letter of authorization does not convey any property rights, or any exclusive privileges and does not authorize any injury to property or excuse you from compliance with other Federal, State, or local statutes, ordinances, regulations, or requirements which may affect this work.



### **EXPIRATION OF THIS VERIFICATION**

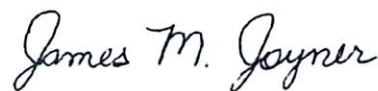
This verification is valid until **March 18, 2022**, unless the NWP is modified, suspended or revoked. If your project, as permitted under this NWP verification is changed and/or modified, you must contact our office prior to commencing any work activities. In the event you have not completed construction of your project by March 18, 2022, please contact us at least 60-days prior to this date. A new application and verification may be required.

### **CUSTOMER SERVICE**

We actively use feedback to improve our delivery and provide you with the best possible service. Please take our online customer service survey to tell us how we are doing. Follow this link to take the survey: [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey). If you have questions or if you would like a paper copy of the survey, call our office at 208-433-4464. For more information about the Walla Walla District Regulatory program, visit us online at <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/>.

If you have any questions or need additional information about this permit, you can contact me at (208) 522-1676, by mail at the address in the letterhead, or email at james.m.joyner@usace.army.mil. For informational purposes, a copy of this letter will be sent to: Ms. Jennifer Chariarse (FHWA) and Mr. Troy Saffle (IDEQ).

Sincerely,



James M. Joyner  
Sr. Project Manager  
Regulatory Division

Enclosures

Transfer of Nationwide Permit Form

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

## TRANSFER OF NATIONWIDE PERMIT

When the structures or work authorized by this Nationwide Permit, **NWW-2018-37-I02, Redfish Lake to Stanley Trail**, are still in existence at the time the property is transferred. The terms and conditions of this Nationwide Permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this Nationwide Permit, the associated liabilities and compliance with the terms and conditions the transferee must sign and date below.

Name of New Owner:

Street Address:

Mailing Address:

City, State, Zip:

Phone Number:

---

*Signature of TRANSFEREE*

---

*DATE*

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail



## COMPLIANCE CERTIFICATION



US Army Corps of Engineers  
Walla Walla District



Permit Number: NWW-2018-37-I02

Name of Permittee: Federal Highway Administration

Date of Issuance: February 2, 2018

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers  
Walla Walla District  
Idaho Falls Regulatory Office  
900 North Skyline Drive, Suite A  
Idaho Falls, Idaho 83402-1718

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit, the permit is subject to suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit. The required mitigation was also completed in accordance with the permit conditions.

---

*Signature of PERMITEE*

---

*DATE*

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

## NATIONWIDE PERMIT 42

**RECREATIONAL FACILITIES:** Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of recreational facilities. Examples of recreational facilities that may be authorized by this NWP include playing fields (e.g., football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, ski areas, horse paths, nature centers, and campgrounds (excluding recreational vehicle parks). This NWP also authorizes the construction or expansion of small support facilities, such as maintenance and storage buildings and stables that are directly related to the recreational activity, but it does not authorize the construction of hotels, restaurants, racetracks, stadiums, arenas, or similar facilities.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. The discharge must not cause the loss of no more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds the district engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects. The loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by the NWP activity cannot exceed 1/2-acre. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification (PCN) to the district engineer prior to commencing the activity. (See general condition 32.) (*Section 404*)

---

### WATER QUALITY CERTIFICATION, NWP 42:

Agency responsible for administration of water quality, based on project location is listed below. *If **DENIED**, then an Individual Water Quality Certification or Waiver of Certification is required, prior to the commencement of any work activities and/or issuance of a DA verification, authorization and/or permit.*

**State of Idaho:** **ISSUED, with exception:** IDEQ denies certification for any activities authorized by this NWP that may result in a discharge to an "outstanding resource water"

**NOTE:** Impacts over 300 LF requires a Statement of Waiver & must be coordinated with IDEQ, prior to permit authorization

**Coeur d'Alene Tribal Lands:** **DENIED**

**Shoshone-Bannock Tribal Lands:** **DENIED**

**U.S. Environmental Protection Agency for all other Tribal Lands:** **DENIED**

---

### REGIONAL CONDITIONS, WALLA WALLA DIVISION

Vegetation Protection & Restoration: Permittee shall avoid and minimize the removal of native vegetation in riparian and wetland areas to the maximum extent practicable. Areas subject to temporary vegetation removal in riparian and wetland areas during construction shall be replanted with appropriate native species by the end of the first growing season following the disturbance except as waived by the District Engineer.

Permittee shall use suitable material to stabilize engineered fills associated with the installation of culverts and other bridge structures. Refer to Nationwide Permit General Condition 6 (suitable material). Permittee shall use appropriate erosion and sediment control measures to ensure stability in and around instream structures.

Waiver Requirement: The applicant must request the waiver in writing and provide documentation and environmentally based reasons to support the waiver request.

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail



## REGIONAL ADDITIONS to the GENERAL CONDITIONS

**General Condition #4, Migratory Bird Breeding Areas:** The U.S. Fish and Wildlife Service (USFWS) is the primary Federal agency responsible for the conservation and management of migratory bird resources. For additional information contact the US Fish and Wildlife Service (Boise Office 208-387-5243); north Idaho field office (Spokane) at 509-891-6839 or the eastern Idaho field office (Chubbuck) at 208-237-6975.

**General Condition #9, Management of Water Flows:** To obtain information on State of Idaho definition of high water refer to Idaho Department of Water Resources (IDAPA 37.03.07. Rule 62.03.04.a). For culverts or bridges located in a community qualifying for the national flood insurance program, the minimum size culvert shall accommodate the 100-year flood design flow frequency (IDAPA 37.03.07. Rule 62.03.04.c).

**General Condition #12, Soil Erosion and Sediment Controls:** If the permittee does not have a Best Management Plan (BMP), refer to the Idaho Department of Environmental Quality Catalog of Stormwater Best Management Practices for Idaho Cities and Counties.

For additional information refer to the Idaho Department of Environmental Quality Catalog of Stormwater Best Management Practices for Idaho Cities and Counties. Website: <http://www.deq.idaho.gov/media/494058-entire.pdf>.

Use of native vegetation is the preferred method to treat soil erosion and stabilize areas disturbed during construction. Eroded and/or disturbed areas shall be replanted with native vegetation and stabilized until vegetative root mass can become established, unless the District Engineer determines this is not practicable. Non-biodegradable materials, such as chicken or hog wire or plastic netting that may entrap wildlife or pose a safety concern should not be used for soil stabilization.

**General Condition #18, Endangered Species:** Non-Federal applicants must contact either their local Idaho Department of Fish and Game (IDFG) or the U.S. Fish and Wildlife Service (USFWS) to determine if any listed species or designated critical habitat might be in the vicinity of their project. Applicants shall notify District Engineer of their findings (see County contact numbers below).

Contact USFWS at (509) 893-8009 for *Bonner, Boundary, Kootenai, Shoshone, Benewah and Latah* Counties

Contact USFWS at (208) 378-5388 for all other Idaho Counties

**General Condition #20, Historic Properties:** Applicants must contact the Idaho State Historic Preservation Office at (208) 334-3847 located in Boise, Idaho to determine if their project may affect historic properties listed in the National Register of Historic Places. Applicant shall notify the District Engineer of their findings.

## NOTIFICATION PROCEDURES PERTAINING TO CERTAIN NATIONWIDE PERMITS

**Waivers:** District coordination with Idaho Department of Environmental Quality (IDEQ) and Environmental Protection Agency (tribal lands) will be conducted prior to the District Engineer making a waiver determination to ensure the proposed activity is in compliance with Section 401 Water Quality Standards.

**Select Waters and Wetlands:** The Corps will coordinate with the Idaho Department of Fish and Game (IDFG) for activities in the following waters, watersheds and wetlands that require notification and are authorized:

- 1) **Waters:** Henry's Fork of the Snake River and its tributaries; South Fork Snake River and its tributaries; Big Lost River upstream of the US 93 crossing south of Leslie; East Fork Big Lost River; Boise River upstream of Arrow Rock Reservoir; Salmon River and its tributaries, St. Joe River; Priest River; Big Wood River.
- 2) **River Basins and Watersheds:** Beaver-Camas Creeks and Mud Lake Basin; Medicine Lodge Creek and Crooked Creek; Kootenai River; Middle and South Fork Clearwater River.

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail



- 3) The following HUC 12 sub-watersheds:  
Big Sand Creek-Palouse River (170601080102); Rock Creek-Palouse River (170601080110); Upper Lolo Creek (170603060201); Musselshell Creek (170603060202); Eldorado Creek (170603060203); Middle Lolo Creek (170603060204); Lower Lolo Creek (170603060205); East Fork Potlatch River (170603060801); West Fork Potlatch River-Potlatch River (170603060802); and Hog Meadow Creek-Potlatch River (170603060902).
- 4) **Wetlands identified in Idaho Department of Fish and Game, Wetland Conservation Strategy as Class I, Class II and Reference Habitat Sites.** (Idaho Department of Fish and Game (IDFG) Wetland Conservation Strategies have been developed for the Henrys Fork Basin, Northern Idaho, Big Wood River, Southeast Idaho, East-Central Idaho and Spokane River Basin, Middle and Western Snake River and tributaries, and the Upper Snake River-Portneuf Drainage, Weiser River Basin, and West Central Mountain Valleys and adjacent wetlands. Closed basins of Beaver-Camas Creeks, Medicine Lodge Creek, Palouse River and lower Clearwater River sub-basins, Middle Fork and South Fork Clearwater Basins and Camas Prairie in northern Idaho. Refer to the internet site at: <http://fishandgame.idaho.gov/content/page/wetlands-publications-idaho-natural-heritage-program#reports>)
- 5) **Wetlands identified in the Idaho Wetland Conservation Prioritization Plan-2012.** (Murphy, C., J. Miller and A. Schmidt. 2012. [https://parksandrecreation.idaho.gov/sites/default/files/uploads/documents/SCORTP/Update/Appendix%20-%20Wetlands%20Priority%20Plan%20\(Part%20I\)%20Compressed1.pdf](https://parksandrecreation.idaho.gov/sites/default/files/uploads/documents/SCORTP/Update/Appendix%20-%20Wetlands%20Priority%20Plan%20(Part%20I)%20Compressed1.pdf))

---

## GENERAL CONDITIONS

To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

### 1. Navigation.

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the

Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

### 2. Aquatic Life Movements.

No activity may substantially disrupt the necessary life cycle movements of those species of

aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

### 3. Spawning Areas.

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

**4. Migratory Bird Breeding Areas.**

**\*See Regional Addition**

Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

**5. Shellfish Beds.**

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

**6. Suitable Material.**

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

**7. Water Supply Intakes.**

No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water

supply intake structures or adjacent bank stabilization.

**8. Adverse Effects From Impoundments.**

If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

**9. Management of Water Flows.**

**\*See Regional Addition**

To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course; condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

**10. Fills Within 100-Year Floodplains.**

The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

**11. Equipment.**

Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

**12. Soil Erosion and Sediment Controls.**

**\*See Regional Addition**

Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

**13. Removal of Temporary Fills.**

Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

**14. Proper Maintenance.**

Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

**15. Single and Complete Project.**

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail



The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

**16. Wild and Scenic Rivers.**

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

**17. Tribal Rights.**

No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

**18. Endangered Species.**

*\*See Regional Addition*

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the

NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that



utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject

to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section

7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

#### **19. Migratory Birds and Bald and Golden Eagles.**

The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

#### **20. Historic Properties.**

**\*See Regional Addition**

(a) In cases where the district engineer determines that the activity may affect properties

#### **Permits**

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be

affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the

potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who,

## Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**21. *Discovery of Previously Unknown Remains and Artifacts.***

If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to

the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

**22. *Designated Critical Resource Waters.***

Critical resource waters include, NOAA managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33,

34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

**23. *Mitigation.***

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of

mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the

required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than

minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the

## Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting

the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects

of the activity to the no more than minimal level.

#### **24. Safety of Impoundment Structures.**

To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

#### **25. Water Quality.**

Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

#### **26. Coastal Zone Management.**

In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33

#### **Permits**

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**27. Regional and Case-By-Case Conditions.**

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**28. Use of Multiple Nationwide Permits.**

The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

**29. Transfer of Nationwide Permit Verifications.**

If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the

nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)

**30. Compliance Certification.**

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The

certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

**31. Activities Affecting Structures or Works Built by the United States**

If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must



submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

**32. Pre-Construction Notification**

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective

permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If

the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the

**Permits**

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail



proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification.

The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with

the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must

provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has

## Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

**(c) Form of Pre-Construction Notification:** The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

**(d) Agency Coordination:**

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in

excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the

terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

**Permits**

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

---

**FURTHER INFORMATION**

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

---

**DEFINITIONS**

**Best management practices (BMPs):** Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

**Compensatory mitigation:** The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

**Currently serviceable:** Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

**Discharge:** The term "discharge" means any discharge of dredged or fill material into waters of the United States.

**Enhancement:** The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Ephemeral stream:** An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

**Establishment (creation):** The manipulation of the physical, chemical or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

**Historic Property:** Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

**Independent utility:** A test to determine what constitutes a single and complete project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

**Intermittent stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**Loss of waters of the United States:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that is filled or excavated as a result of the regulated activity. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization,

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

such as activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

**Non-tidal wetland:** A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR part 328.3(c)(4). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

**Open water:** For purposes of the NWP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

**Ordinary High Water Mark:** An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR part 328.3(c)(6)).

**Perennial stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Pre-construction notification:** A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Re-establishment and rehabilitation.

**Riffle and pool complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

**Riparian areas:** Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

**Single and complete project:** The term “single and complete project” is defined at 33 CFR part 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a “single and complete project” is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects

## Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

**Stormwater management:** Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

**Stormwater management facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

**Stream bed:** The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

**Stream channelization:** The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

**Tidal wetland:** A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR part 328.3(c)(4) and 33 CFR part 328.3(d), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR part 328.3(c)(7).

**Vegetated shallows:** Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

**Waterbody:** For purposes of the NWP's, a waterbody is a jurisdictional water of the United States. If a wetland is adjacent to a waterbody determined to be a water of the United States under 33 CFR part 328.3(a)(1)-(5), that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR part 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

---

## DEFINITIONS, REGIONAL ADDITIONS

**Alkaline Wetlands:** wetlands on alkaline and or saline soils found where evaporation far exceeds precipitation; sites range from sloped seeps and springs (most common) to drainages or pond and playa margins; flooding and saturation varies, but high groundwater is typical and vegetation is salt tolerant.

REFERENCE: Cowardin, L. M., Carter, F.C Golet, and E.T. LaRoe. 1979 Classification of wetlands and deepwater habitats of the United States. U.S. Fish and Wildlife Service. FWS/OBS-79/31. Washington, DC

**Forested Wetlands:** Wetlands characterized by woody vegetation that is 6 meters tall or taller; They are located where moisture is relatively abundant, particularly along rivers and in the mountains and normally possess an overstory of trees and an understory of young trees or shrubs and an herbaceous layer.

REFERENCE: Classification of Wetlands and Deepwater Habitats of the United States, Mr. Lewis M. Cowardin; Office of Biological Services; Fish & Wildlife Services; 1979

**Invasive Species:** Species of plants not native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

REFERENCE: Executive Order No. 13112; U.S. Department of Agriculture National Invasive Species Information Center

**Kettle:** A steep sided, usually basin or bowl shaped hole or depression, commonly without surface drainage, in glacial drift deposits, often containing a lake or swamp.

REFERENCE: Bates, Robert L. & Jackson, Julia A.; Glossary of Geology, American Geological Institute; Falls Church; 1980

### Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail

**Native Species:** Species that occurs naturally in a particular region, state, ecosystem and habitat without direct or indirect human actions.

REFERENCE: Federal Native Plant Conservation Committee; 1994

**Peatland:** Wetlands in cold and persistently saturated settings with at least 30 cm of peat accumulation: fen peatlands form on slopes with groundwater discharge and on floating anchored mats in kettle ponds, subalpine lakes or valley lakeshores; as peat accumulates, ridges or mounds may form; they often support specially adapted mosses and plants.

REFERENCE: Bursik, R.J. and Moseley, R.K.; Ecosystem Conservation Strategy for Idaho Panhandle Peatlands; Cooperative project between Idaho Panhandle National Forest and Idaho Department of Fish & Game; Conservation Data Center; Boise 28 pp plus Appendix; 1995

**Playas:** Shallow, unpredictably, and temporarily flooded precipitation filled pools formed on hardpan soils with a clay or cemented layer, or on shallow soils over bedrock; vegetation is typically sparse and often salt tolerant, but playas may support endemic plants and invertebrates.

REFERENCE: Tiner, R.W., H.C. Bergquist, G.P. DeAlessio, and M. J. Starr. 2002. Geographically Isolated Wetlands: A Preliminary Assessment of their Characteristics and Status in Select Areas of the United States. U.S. Department of the Interior, Fish and Wildlife Service, Northeast Region, Hadley, MA.

**Spring-fed Wetlands:** Wetlands supported by surface discharge of groundwater, often occurring on gentle to steep slopes, but also including upwellings in flat basins

REFERENCE: Sada, D.W., Williams, J.E., Silvey, J.C., Halford, A., Ramakka, J., Summers, P., Lewis, L. 2001 Riparian area management. A guide to managing, restoring, and conserving springs in the western United States. Technical Reference 1737-17. Denver, CO: Bureau of Land Management. BLM/ST/ST-01/001+1737.

**Vernal Pools:** Precipitation-filled seasonal wetlands inundated during periods when temperature is sufficient for plant growth, followed by a brief waterlogged-terrestrial stage and culminating in extreme desiccating soil conditions of extended duration.

REFERENCE: Keely, J.E. & Zedler, P.H.; Characterization and Global Distribution of Vernal Pools; Pp 1-14 in C.W. Witham, E.T. Bauder, D. Belk, W.R. Ferren Jr., and R. Ornduff (Editors); Ecology, Conservation, and Management of Vernal Pool Ecosystems (Proceedings from Conference, 1996); California Native Plant Society, Sacramento, CA; 1998

---

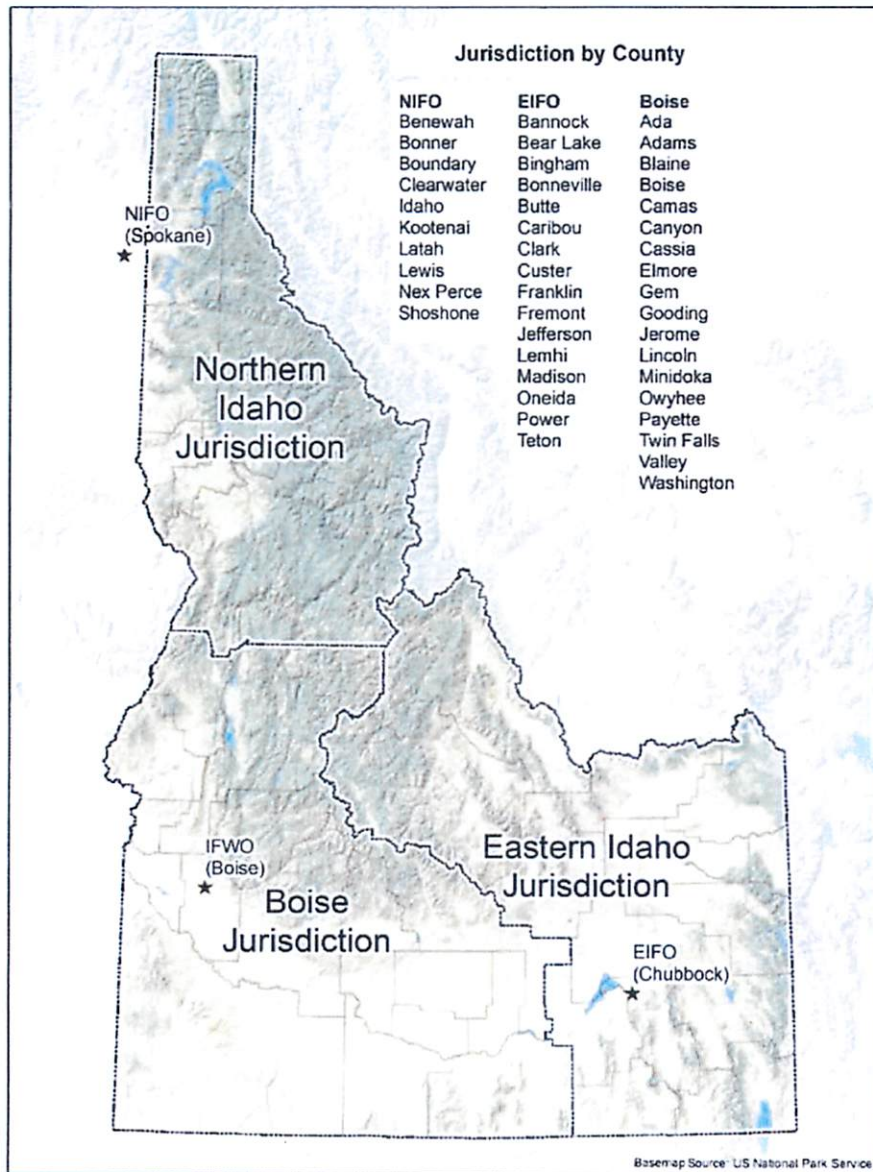


Figure 2. U.S. Fish and Wildlife Field Office Coverage.

Permits

Project: ID FS SAW T2017(1), Redfish Lake to Stanley Trail